Supreme Court, U. S.
FILED
JUN 10 1975
MICHAEL RODAK, JR., CLERK

In the

SUPREME COURT of the UNITED STATES

No. 74-1591

JUNE TERM

ROSEMARY WILLIAMS PRO SE:
PETITIONER

vs.

C. E. (CAP) NICHOLS ET AL:
RESPONDENT

Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

ROSEMARY WILLIAMS PRO SE:
1608 Gardenside Drive
Dallas, Texas 75217
Phone: AC 214 - 285-5916

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In the

SUPREME COURT of the UNITED STATES

JUNE TERM

No.

ROSEMARY WILLIAMS PRO SE:
PETITIONER

vs.

C. E. (CAP) NICHOLS ET AL
RESPONDENT

Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

---

Petitioner prays that a Writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINION BELOW

A copy of the opinion of the United States court of appeals for the Fifth Circuit. Affirming the judgment of conviction of petitioner in the United States District Court for the District of Texas is attached as Appendix "A." The subject opinion was not published, and a copy of opinion of the Fifth Circuit affirming Appendix "1." and "2." mandate stayed "A. - 3.".

JURISDICTION

This court has jurisdiction to review the decision of the Fifth Circuit Court of Appeals pursuant to 28 U.S.C. § 1254 (1.) The judgment of guilty was entered in the state district court on July 1969 and was affirmed by the circuit court on October 20, 1971.

The garnishment judgment was entered and enforced. It was not a final and valid judgment the said case was on appeal Appendix "7." will verify that fact. This is in violation of the laws of congress. Validity of a state statute on the ground it is repugnant to the Constitution or laws of the United States. In order the Fifth Circuit Court affirmed the judgment. This involves 28 U.S.C. 1252, 28 U.S.C. § 1257 (2.); 28 U.S.C. § 2284; 28 U.S.C. § 2403 may be applicable.

QUESTIONS PRESENTED

(1.) Is a confession or admission of the crime for which defendant is subsequently convicted, and also related acts showing a pattern of similar offenses, admissible into evidence when secured by a special agent for the F.B.I. who, during the interrogation, makes materially false statements of the law (relating to Fed. R. Crim. P. 20)? (Rule 20 is attached as Appendix 6.)

(2.) Is a confession or admission of the crime for which defendant is subsequently convicted, and also related actions showing a pattern of similar offenses, admissible into evidence when secured from defendant by a special agent for the F.B.I. who, upon being informed by defendant that he waives his right to counsel, makes materially false statements of the law?

(3.) Was there substantial evidence to support the conviction of the petitioner?

LAW RELIED UPON

Petitioner relies upon Fed. R. Crim. P. 20., Fed. R. Civil P. Rule 60 (B.) and the Sixth and Fourteenth amendments

to the United States Constitution. 28 U.S.C. 1343, 28 U.S.C. 2284, 28 U.S.C. 1343, and 42 U.S.C. 1985. Also 28 U.S.C. 1252, and 28 U.S.C. 1257 (2.).

STATEMENT

Defendant was found guilty by a jury of "malicious prosecution." Defendant was not charged by indictment, at the trial the state introduced witnesses who testified as follows:

(1.) That the application for Peace Bond was made against the plaintiff, appellee, respondent, the witnesses could not clearly identify that respondent did not threaten the petitioner.

(2.) That the defendant had an opportunity to cross the property of the 15 acres in question of ownership.

(3.) That on (expert testimony the peace bond introduced into evidence by the state had been signed by the defendant.

(4.) Defendant presented evidence there was a record of fraud concerning the land in question on the Deed Records of Wood County, Texas.

REASONS FOR ALLOWING THE WRIT

The confessions and admissions were tainted, Special Agent of the F.B.I. interviewed the defendant in Dallas County, Texas.

Concerning the title to the land, and the ownership of land in question. At the time the defendant was not advised of and did not sign a waiver of rights. The statement was not presented to the defendant. Although the defendant, according to the testimony of the F.B.I. agent, said he would discuss the matter without the aid of counsel, apparently the F.B.I. agent never determined who the defendant's counsel was or whether defendant in fact actually did have counsel. The agent did not attempt to explain the provisions of Rule 20 to the defendant during the interrogation and that his explanation was not only inadequate but completely misleading.

The state court entered a "Garnishment" judgment August 15, 1973, during the time the said case was on appeal to the Supreme Court of Texas Appendix "7.". The 115th Judicial District Court was without jurisdiction of the cause or matter. This is a "Conspiracy to Obstruct Justice" 42 s 1985 U.S.C. Rule 60 (b.) F.R. C. P. without a doubt defendant's confession and admission as to filing of criminal charge for which she was on trial constituted a substantial portion of the states case against her. The Fifth Circuit Court of Appeals, in directing itself to the issue affirmed the dismissal of temporary injunction filed under Rule 60 (B.) Fed. Rule Civil Procedure Appendix "8.".

In Rini v. Katzenbach, 7 Cir., 403 F. 2d. 697, the court directed itself specifically to the requirements in a Rule 20 proceeding. The defendant therein was interrogated on several occasions by an F.B.I. special agent. Each time the defendant was advised of his rights. The agent

> testified that he explained to [the defendant] the operation of [Rule 20] whereby the defendant could plead guilty.

The agent additionally testified

> He explained to Rini the operation of [Rule 20] whereby Rini could plead guilty in the Northern District of Illinois and the case would not be transferred to the Northern District of Indiana: but that if he did not plead guilty under Rule 20, it would be transferred.

Rini, Supra at 699.

> The crux of Rini is contained in the following paragraph:
>
> At no time did [the agent] testify that he warned Rini of the right to counsel in connection with the Rule 20 proceedings nor did he ever advise him that counsel could be appointed for him if he could not afford to

> employ counsel of his own choice. Without benefit of counsel, Rini signed a plea of guilty under Rule 20 while in Stateville.

Rini, Supra at 699.

> Likewise here, while the defendant was advised of his rights, including his right to counsel, he was not advised that his right to counsel extended to any Rule 20 proceedings. The agent undertook of his own volition to advise the defendant what he thought the meaning and interpretation was of Rule 20. Without that advice being given, would the defendant have confessed and admitted to conduct showing a pattern of activity similar to that for which he was tried?

It makes little difference whether the defendant actually enters a plea in a Rule 20 proceeding without knowing he has a right to counsel in that proceeding, (as in Rini), or whether, as here, he confesses to other acts, one of which he had already been charged with in Texas, after being "advised" of what a Rule 20 proceeding is, and without being advised of his right to counsel in such a proceeding.

The holding, (and reasoning) in Rini is instructive in the instant situation and the propositions therein applied by the Seventh Circuit are persuasive here. Not only is the absence of counsel crucial at certain stages of proceedings against the defendant but crucial also is the absence of explanation to a defendant, at a critical stage, that he has a right to counsel, for all proceedings in which he may participate, and that anything and everything he says may be used against him even if not directly related to the particular charge for which he is being interrogated.

Under this set of circumstances how could the defendant have known his confession and admissions would result in a new indictment rather than a proceeding under Rule 20? Who can say to what the defendant would have confessed or

admitted. To allow the decision of the Fifth Circuit to stand would be to condone and foster in a very real sense the giving of legal advice to defendants by biased or ill-informed law enforcement officers. Certainly the rationale of the Sixth and Fourteenth Amendments to the U.S. Constitution and of this court's decisions in Miranda and Escobedo do not mean that such law enforcement officers may give legal advice to defendants in lieu of and as substitution for legal advice from independent attorneys. The giving of such improper and incorrect legal advice should, as a matter of sound constitutional law, vitiate the defendant's confession and admission as well as his earlier, purported waiver of right to counsel.

LACK OF SUBSTANTIAL EVIDENCE TO SUPPORT THE CONVICTION

This issue is included in the present petition at the request of the petitioner.

There was not before the district court any evidence that petitioner had committed a crime for which she was indicted and tried. There was no evidence in the record that corroborated the testimony of the agent in regard to the statements that the petitioner allegedly made to the agent. Especially should the latter point be taken into consideration in light of the principle stated in the preceding argument by the petitioner regarding the impropriety of the admission into evidence of statements relating not only to the crime for which she was tried, but to similar acts.

Absent the confession, the corroborating evidence was very weak indeed.

Gart v. United States, 294 F. 66, States:

> The scope and purpose of testimony concerning similar offenses is limited . . . only in exceptional cases is the proof of such transactions admissible. Where a case falls within the exception, the proof must be clear and

> convincing. It will be unnecessary to discuss the point in this case as to whether or not this line of testimony fell within the exception to the general rule governing the proof of similar offenses, for the reason that in the case at bar we have no proof of an offense but merely proof of a suspicious circumstance.

So here, there is no exceptional case which would allow the introduction of proof of similar transactions, especially since the testimony of the agent as to those similar transactions was illicited after the defendant had been not only improperly advised by the agent as to Rule 20, but after the agent had improperly undertaken to advise the defendant without informing her of her right to counsel in the Rule 20 proceeding. The evidence showed that there was a peace bond issued by the J.P. C.C. Cathey and a forcible entry detainer suit filed by the said petitioner. There was misrepresentations and fraud concerning the title to land the Deed Records of Wood County, Texas verify that fact.

Absent not only the evidence admitted to the agent and obtained from the confession of defendant as to the specific crime for which she was tried, but the evidence of similar acts, the evidence was totally insufficient to convict the defendant.

CONCLUSION

Therefore, this petitioner respectfully requests that this court issue a Writ of Certiorari to review the judgment of the Fifth Circuit Court of Appeals.

Respectfully Submitted,

Rosemary Williams Pro Se

ROSEMARY WILLIAMS PRO SE:
1608 Gardenside Drive
Dallas, Texas 75217
Phone: (214) 285-5916

CERTIFICATE OF MAILING

The undersigned hereby certifies that she has mailed on the ~~2nd~~ 10th day of June 1975 copies of Petitioners Petition for Writ of Certiorari, United States mail postage prepaid to:

Attorney General of Texas
John Hill
Austin, Texas

District Attorney Henry Wade
Dallas County Government Center
Dallas, Texas 75202

Assistant District Attorney John Tolle
Dallas County Government
Dallas, Texas 75202

Edward W. Wadsworth
Clerk United States Court of Appeals
Fifth Circuit
600 Camp Street
New Orleans, Louisiana 70130

The Solicitor General
Department of Justice
Washington, D.C. 80530

Rosemary Williams Pro Se:

ROSEMARY WILLIAMS PRO SE:
1608 Gardenside Drive
Dallas, Texas 75217
Phone: (214) 285-5916

June 10, 1975

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Supreme Court, U. S.
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In the

SUPREME COURT of the UNITED STATES

No. 74-1591

JUNE TERM

ROSEMARY WILLIAMS PRO SE:
PETITIONER

vs.

C. E. (CAP) NICHOLS ET AL:
RESPONDENT

APPENDIX

Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

ROSEMARY WILLIAMS PRO SE:
1608 Gardenside Drive
Dallas, Texas 75217
Phone: AC 214 - 285-5916

CAPTION

PAGE

IN THE UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT. (APPEAL FROM THE UNITED
STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF TEXAS. NO. 74 - 3879
ROSEMARY WILLIAMS VS. C.E. (CAP) NICHOLS
ET AL: ORDER MARCH 12, 1975
EXHIBIT "A." . . . . . A-1.

UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT
(CERTIFY QUESTIONS TO THE SUPREME COURT)
NO. 74 - 3879, ROSEMARY WILLIAMS VS.
C.E. (CAP) NICHOLS ET AL: ORDER MAY 12, 1975
EXHIBIT "A." . . . . . A-2.

IN THE UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT. (STAY OF MANDATE) NO. 74 - 3879
ROSEMARY WILLIAMS VS. C.E. (CAP) NICHOLS ET AL:
ORDER JUNE 29, 1975, EXHIBIT "A." . . . . . A-3.

IN THE UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT (APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE NORTHERN DISTRICT
OF TEXAS.) BILLY BOB WILLIAMS ET UX: VS.

(CONT.)

CAPTION (CONT.)

PAGE

DR. DWIGHT DILL ET AL: NO. 71 - 2448
ORDER ENTERED, OCTOBER 20, 1971
EXHIBIT "A." . . . . . A-4..

UNITED STATES COURT OF APPEALS FIFTH
CIRCUIT. (APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE NORTHERN DISTRICT
OF TEXAS.) ROSEMARY WILLIAMS ET VIR: VS.
C.E. (CAP) NICHOLS ET UX: NO. 72 - 1569
ORDER ENTERED AUGUST 2, 1972
EXHIBIT A., B., C., ... A-5.

FEDERAL RULE CRIMINAL PROCEDURE
"RULE 20" EXHIBIT "A." . . . . . A-6.

"LETTER" COURT OF CIVIL APPEALS
SIXTH SUPREME JUDICIAL DISTRICT
TEXARKANA, TEXAS. AUGUST 14, 1974
RE: NO. 8040 - BILLY BOB WILLIAMS ET UX:
V. DILLM ET AL: (NO. 12,763 IN THE DISTRICT
COURT OF WOOD COUNTY, TEXAS)
NO. 8148 - ROSEMARY WILLIAMS, PRO SE:
V. NICHOLS (NO. 12,881 IN THE DISTRICT
COURT OF WOOD COUNTY) EXHIBIT "A." . . . . . A-7.

CAPTION (CONT.)

PAGE

CLERK'S OFFICE - SUPREME COURT

AUSTIN, TEXAS

"MOTION FOR REHEARING" OVERRULED

OCTOBER 24, 1973 WILLIAMS ET VIR:

VS. NICHOLS, NO. B - 4126 FROM

THE COURT OF CIVIL APPEALS, SIXTH

SUPREME JUDICIAL DISTRICT NO. 8148

(NO. 12,881 IN THE DISTRICT COURT OF

WOOD COUNTY) EXHIBIT "B.". . . . . A-7.

FEDERAL RULE CIVIL PROCEDURE

RULE 60 (b.) EXHIBIT "A." . . . . . A-8.

CERTIFICATE OF MAILING . . . . . A-9.

A-1 EXHIBIT "A"

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

DO NOT PUBLISH

NO. 74-3879

SUMMARY CALENDAR*

ROSEMARY WILLIAMS,

Plaintiff- Appellant

- vs -

C. E. (CAP) NICHOLS,
ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas

[March 12 , 1975]

Before COLEMAN, AINSWORTH, and SIMPSON, Circuit Judges.

PER CURIAM: AFFIRMED. See Local Rule 21.(1)

Costs are taxed against the plaintiff-appellant

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* Rule 18, 5 Cir.; see Isbell Enterprises, Inc. v. Citizens Casualty Company of New York, et al., 5 Cir., 1970, 431 F.2d 409, Part I.

(1) See NLRB v. Amalgamated Clothing Workers of America, 5 Cir., 1970, 430 F.2d 966.

Issued as Mandate:

BLEED THROUG

A-2 EXHIBIT "A"

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

U.S. COURT OF APPEALS
FILED
MAY 12 '75
EDWARD W. WADSWORTH
CLERK

No. 74-3879

ROSEMARY WILLIAMS,

Plaintiff-Appellant,

versus

C. E. (CAP) NICHOLS, ET AL.,

Defendants-Appellees.

- - - - - - - - - - -

Appeal from the United States District Court for the Northern District of Texas

- - - - - - - - - - -

O R D E R : -

IT IS ORDERED that appellant's motion for stay pending appeal from this Court's order of April 28, 1975 denying her motion to certify questions to the United States Supreme Court, is DENIED

Jas. P. Coleman

UNITED STATES CIRCUIT JUDGE

A-3 EXHIBIT "A"

United States Court of Appeals

FIFTH CIRCUIT

EDWARD W. WADSWORTH
CLERK

OFFICE OF THE CLERK

600 CAMP STREET
NEW ORLEANS, LA. 70130
TELEPHONE 504-589-6514

May 30, 1975

Ms. Rosemary Williams
1608 Gardenside Drive
Dallas, Texas 75217

No. 74-3879 - Rosemary Williams vs. C. E. (Cap) Nichols, et al

MANDATE STAYED TO AND INCLUDING June 29, 1975

Dear Sir:

The court has this day granted a stay of the issuance of the mandate to the date as shown above. If during the period of the stay there is filed with the clerk of this court a notice from the clerk of the Supreme Court that the party who has obtained the stay has filed a petition for the writ in that court, the stay shall continue until final disposition by the Supreme Court. Upon the filing of a copy of an order of the Supreme Court denying the petition for writ of certiorari, the mandate shall issue immediately under Rule 41, FRAP.

Under revised Rule 21(1) of the Supreme Court effective July 1, 1970, a record is no longer required in connection with an application for writ of certiorari, and therefore will not be routinely prepared by this office (38LW 3502).

A copy of the opinion, if any, judgment, or Rule 21 decision, and the denial of rehearing are still required by the Supreme Court to be incorporated as an appendix to your petition. Enclosed are copies of the said documents which have been entered in this cause.

Very truly yours,

EDWARD W. WADSWORTH, Clerk

By Carol H. LeSage
Deputy Clerk

cc: Messrs. Henry Wade
John B. Tolle
Hon. John L. Hill

BLEED THRO

 EXHIBIT " A "

United States Court of Appeals

FOR THE FIFTH CIRCUIT

October Term, 1971

No. 71-2448
Summary Calendar

D. C. Docket No. CA 3-4811

BILLY BOB WILLIAMS, ET UX,

Plaintiffs-Appellants,

versus

DR. DWIGHT DILL, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for the
Northern District of Texas

Before BROWN, Chief Judge, INGRAHAM and RONEY, Circuit Judges.

J U D G M E N T

This cause came on to be heard on the transcript of the record from the United States District Court for the Northern District of Texas, and was taken under submission by the Court upon the record and briefs on file, pursuant to rule 18;

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be, and the same is hereby affirmed;

It is further ordered that plaintiffs-appellants pay to defendants-appellees, the costs on appeal to be taxed by the Clerk of this Court.

October 20, 1971

Issued As Mandate:

A - 5 EXHIBIT "A"

IN THE

United States Court of Appeals

FOR THE FIFTH CIRCUIT

No. 72-1569
Summary Calendar*

ROSEMARY WILLIAMS, ET VIR,
Plaintiffs-Appellants,

versus

C. E. (CAP) NICHOLS, ET UX,
Defendants-Appellees.

Appeals from the United States District Court for the Northern District of Texas

---

(August 2, 1972)

Before GEWIN, AINSWORTH and SIMPSON, Circuit Judges.

PER CURIAM: Rosemary Williams appeals from the order of the district court remanding to the Texas state courts two civil suits which Williams had attempted to remove to the federal court. Among the several grounds asserted for removal was the claim that she

---

*Rule 18, 5th Cir. See Isbell Enterprises, Inc. v. Citizens Casualty Co. of New York, et al., 5th Cir. 1970, 431 F.2d 409, Part I.

BLEED THROU

was entitled to remove the actions under the civil rights provisions of 28 U.S.C. § 1443(1). Accordingly this court has jurisdiction to review the district court's remand order[1] under 28 U.S.C. § 1447(d). We affirm.

The genesis of both actions appears to be a dispute over title to land in Texas. In 1969 C. E. (Cap) Nichols brought a civil action against Williams in the state court seeking damages for malicious prosecution and a restraining order. Williams appeared *pro se* and defended the action. In 1970 Williams filed an action against Nichols in the state court claiming damages for false representation in connection with Nichols' claim to certain land. Nichols answered and filed a cross action seeking to quiet title to the lands in dispute and to enjoin Williams from filing further lawsuits in connection with the title dispute.

In her petition for removal of both suits Williams alleges that the trial of the suits separately and in the absence of several parties whom she deems "indispensable" violates her civil rights and entitles her to removal under § 1443(1). The short answer to this contention is that even assuming that Williams' allegations amount to a denial of her civil rights, that violation does not fall within the narrow set of civil rights

---

[1] Although numerous other impediments to removal appear on the face of the petitions we are limited by statute to a review of only those contentions with respect to § 1443.

> "An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1443 of this title shall be reviewable by appeal or otherwise." 28 U.S.C. § 1447(d).

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claims which are removable under § 1443(1). *Georgia v. Rachel*, 384 U.S. 780, 16 L.Ed.2d 925 (1966); *City of Greenwood v. Peacock*, 384 U.S. 808, 16 L.Ed.2d 944 (1966). Removal under § 1443(1) is permissible only when a right conferred by a law providing for specific civil rights stated in terms of racial equality is denied or cannot be enforced in the state court. See *Student Non-violent Coordinating Committee v. Smith*, 382 F.2d 9 (5th Cir. 1967). The removal petitions reveal that no such denial is threatened in this case. Accordingly the court's order remanding the cases was proper and AFFIRMED.

Adm. Office, U.S. Courts—Scofields' Quality Printers, Inc., N. O., La.

BLEED THROUGH

Rule 20. Transfer from the District for Plea and Sentence

(a) Indictment or Information Pending. A defendant arrested or held in a district other than that in which the indictment or information is pending against him may state in writing that he wishes to plead guilty or *nolo contendere*, to waive trial in the district in which the indictment or information is pending and to consent to disposition of the case in the district in which he was arrested or is held, subject to the approval of the United States attorney for each district. Upon receipt of the defendant's statement and of the written approval of the United States attorneys, the clerk of the court in which the indictment or information is pending shall transmit the papers in the proceeding or certified copies thereof to the clerk of the court for the district in which the defendant is held and the prosecution shall continue in that district.

(b) Indictment or Information Not Pending. A defendant arrested on a warrant issued upon a complaint in a district other than the district of arrest may state in writing that he wishes to plead guilty or *nolo contendere*, to waive trial in the district in which the warrant was issued and to consent to disposition of the case in the district in which he was arrested, subject to the approval of the United States attorney for each district. Upon receipt of the defendant's statement and of the written approval of the United States attorneys and upon the filing of an information or the return of an indictment, the clerk of the court for the district in which the warrant was issued shall transmit the papers in the proceeding or certified copies thereof to the clerk of the court for the district in which the defendant was arrested and the prosecution shall continue in that district. When the defendant is brought before the court to plead to an information filed in the district where the warrant was issued, he may at that time waive indictment as provided in Rule 7, and the prosecution may continue based upon the information originally filed.

(c) Effect of Not Guilty Plea. If after the proceeding has been transferred pursuant to subdivision (a) or (b) of this rule the defendant pleads not guilty, the clerk shall return the papers to the court in which the prosecution was commenced and the proceeding shall be restored to the docket of that court. The defendant's statement that he wishes to plead guilty or *nolo contendere* shall not be used against him.

(d) Juveniles. A juvenile (as defined in 18 U.S.C. § 5031) who is arrested or held in a district other than that in which he is alleged to have committed an act in violation of a law of the United States not punishable by death or life imprisonment may, after he has been advised by counsel and with the approval of the court and the United States attorney, consent to be proceeded against as a juvenile delinquent in the district in which he is arrested or held. The consent shall be given in writing before the court but only after the court

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A-7 EXHIBIT "A"

T. C. CHADICK
CHIEF JUSTICE

C. L. RAY, JR.
ASSOCIATE JUSTICE

BILL A. CORNELIUS
ASSOCIATE JUSTICE

Court of Civil Appeals

Sixth Supreme Judicial District

Texarkana, Texas 75501

(MRS.) LONNIE E. JONES, CLERK
401 TEXAS CITY HALL
(214) 794-2278

August 14, 1974

Ms. Rosemary Williams
1608 Gardenside Drive
Dallas, Texas 75217

Re: No. 8040-Billy B. Williams, et ux
v. Dill, et al (No. 12,763 in the
District Court of Wood County)

No. 8148-Rosemary Williams, Pro Se
v. Nichols (No. 12,881 in the District
Court of Wood County)

Dear Ms. Williams:

This Court is holding two (2) large tree limbs (each with barbed-wire appendages), which were filed with it as exhibits in connection with the captioned causes, both of which causes are now closed.

As the said exhibits are cumbersome and space-consuming, and our storage space is very limited, we wish to dispose of the exhibits in a manner satisfactory to you, and, accordingly, we propose:

(1) Discarding as refuse and refunding to you the sum of $9.40 (excess amount deposited for express on record to Supreme Court in Cause No. 8148); or, in the alternative,

(2) Returning the tree parts to you via express at your cost, using the said refund due you to defray the express charge.

Unless we hear from you within ten (10) days, we will assume this matter to be immaterial to you, and will dispose of the exhibits in the manner deemed most expedient by the Court.

Sincerely yours,
Donnie O'Neill, Clerk

/lwl

By: Louise Waldrop Lohse
Louise Waldrop Lohse, Deputy

BLEED THROUGH

EXHIBIT " B. "

CLERK'S OFFICE - SUPREME COURT

Austin, Texas, Oct. 24, 1973

Dear Sir: —

You are hereby notified that the Motion for Rehearing in the case of WILLIAMS ET VIR. vs. NICHOLS, No. B-4126 was this day overruled.

Very truly yours,
GARSON R. JACKSON, Clerk

POOR COPY

A - 8

EXHIBIT " A "

Rule 60.

RELIEF FROM JUDGMENT OR ORDER

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the appellate court, and thereafter while the appeal is pending may be so corrected with leave of the appellate court.

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc. On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken. A motion under this subdivision (b) does

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CERTIFICATE OF MAILING

The undersigned hereby certifies that she has mailed on the 13th. day of June 1975 copies APPENDIX Petition for Writ of Certiorari, United States mail postage prepaid to:

Attorney General of Texas
John Hill
Austin, Texas

District Attorney Henry Wade
Dallas County Government Center
Dallas, Texas 75202

Assistant District Attorney John Tolle
Dallas County Government
Dallas, Texas 75202

Edward W. Wadsworth
Clerk United States Court of Appeals
Fifth Circuit
600 Camp Street
New Orleans, Louisiana 70130

The Solicitor General
Department of Justice
Washington, D.C. 80530

Rosemary Williams Pro Se

ROSEMARY WILLIAMS PRO SE:
1608 Gardenside Drive
Dallas, Texas 75217
Phone: (214) 285-5916

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